

Santa Fe, New Mexico  
Wellhead Protection District Hazardous Material Management  
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General Ordinance

ORDINANCE ESTABLISHING SECTION 14-77D  
OF THE SANTA FE CITY CODE OF 1987

WELLHEAD PROTECTION DISTRICTS

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Exhibit A: Map of W-1 District.

L WELLHEAD PROTECTION PROGRAM  
SECTION 14-77D  
CITY OF SANTA FE, NEW MEXICO  
AN ORDINANCE RELATING TO THE CREATION OF WELLHEAD PROTECTION DISTRICTS AND other ELEMENTS OF A WELLHEAD PROTECTION PROGRAM TO PREVENT THE POLLUTION OF DRINKING WATER.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SANTA FE:

Section 14-77D SFCC 1987 is ordained to read: -

~NEW MATERIAL~.J WELLHEAD PROTECTION PROGRAM

14-77D.1 Purpose and intent. The purpose of this Section is to protect the public health, safety and welfare of the citizens of the City of Santa Fe by establishing a Wellhead Protection Program which includes standards for land uses and activities within designated Wellhead Protection Districts.

WELLHEAD PROTECTION PROGRAM SECTION 14-77D

The procedures of Sections 14-77A and 10-5 will be used to ensure that the requirements of this Section are met.

14- 77D. 2 Definitions.

As used in this Section:

Environmental Officer means the person designated as the

Environmental Officer in accordance with Section 14-77A.5

SFCC of 1987, or his/her designee.

Facility means an area, -a building or buildings, appurtenant structures or surrounding land area used by a single business entity at a single location or site.

Hazardous material means any material which is subject to regulation pursuant to Section 10-5.

Nonconforming facility means any facility which if new would not be allowed under the provisions of Section 14-77D. It includes land uses and structures which become located within a W-1 or W-2 District because of a change in District boundaries caused by adoption of this ordinance or operation of procedures set forth here in Section 14-77D.3. Where a non-conforming facility is given a specified time to conform to this ordinance, that time shall be measured as starting on the date that this ordinance is adopted, or the date the W-1 District boundaries extend to include the facility, whichever is later.

Pollution: see water pollution.

Primary containment means the first level of containment, i.e. the inside portion of that container or storage device which comes into immediate contact on its inner surface with a hazardous material.

Public water supply System means any system which provides piped water to the public for human consumption, if such system has its own independent source of supply and has at least 15 service connections or regularly serves at least 25 individuals daily on at least 60 days out of the year.

Secondary containment means containment external to and separate from primary containment.

State authorized discharge means any release of water authorized by a ground water discharge plan under the New Mexico Water Quality Control Commission Regulations; liquid waste disposal permit under the New Mexico Liquid Waste Disposal Regulations; or underground injection plan under the New Mexico Water Quality Control Commission Regulations.

Unauthorized discharge means any release of any hazardous material to the soil or ground water which does not conform to the provisions of this Section, including leaks and spills of such material, unless such release has been authorized by the State of New Mexico Environment Department or the U.S Environmental Protection Agency and the City has been notified in advance of the release.

Underground storage tank (UST) means a single tank or combination of tanks, including underground pipes connected thereto, which are used to contain an accumulation of fuels, hazardous materials or other substances which are non-potable and the volume of which, including the volume of the underground pipes connected thereto, is ten per centum or more beneath the surface of the ground.

Water contaminant means any substance which alters the physical, chemical or biological properties of water.

Water pollution means introducing or permitting the introduction into water, either directly or indirectly, of one or more water contaminants in such quantity and of such duration as may with reasonable probability injure human health, animal or plant life or property, or to unreasonably interfere with the public welfare or the use of property.

14-77D.3 Creation of W-1 and W-2 Districts. Two Wellhead Protection Districts are hereby established in Santa Fe.

A. District W-1 is that area within a 1000-foot radius of any well used by the Sangre de Cristo Water Company and its successor or other public water supplier to provide water to any area within the City of Santa Fe, except as follows.

1.

The 1000-foot radius is the minimum area recommended for Wellhead Protection by the New Mexico Environmental Improvement Division in the Wellhead Protection Program, State of New Mexico, August 1990. At no time shall the W-1 District ever be smaller than the minimum area specified by the New Mexico Environment Department or its successor.

2.

-Changes in the boundary of any W-1 District may be made upon approval of the City Council, after a Public Hearing has been held.

3. The City shall maintain a map showing the current location of the W-1 Districts. - The map shall be available for public inspection at the Planning and Land Use Department of the City of Santa Fe. Exhibit A is the map that shall be used at the time this ordinance is adopted.

B. District W-2 is that area within a 5-mile radius of any water supply well, existing or future, which is operated by a public water supply system and which provides water to any area within the City of Santa Fe.

C. In accordance with the terms of Section 3-27-3 SA 1978, both Districts W-1 and W-2 may extend outside the City Limits, if and to the extent that such extraterritorial jurisdiction is approved by the County of Santa Fe.

D. Where the boundaries of the Wellhead Protection

District(s) are in doubt or dispute the owner or operator of

the facility in question shall show, to the satisfaction of the

Environmental Officer, the proper boundary of the Wellhead

Protection District(s).

14-77D.4. "Land Uses Within a W-1 District. The W-1 District is an overlay, and the provisions thereof apply in addition to the provisions of the underlying zoning. The provisions of the W-1 District are as follows.

A. Any land use or facility which is subject to any of the permitting requirements listed below is not permitted in any W-1 District, except that nonconforming uses and facilities in existence at the time District boundaries which encompass the use or facility are permitted to remain within the District for a period not to exceed four years.

1.

This subsection 14-77D.4(A) applies to any land use or facility which requires a State or Federal hazardous waste permit under the New Mexico Hazardous Waste Management Regulations, Parts II and IV or 40 CFR Parts 261 and 270 (RCRA).

2.

This subsection 14-77D.4(A) applies to any land use or facility which requires a State solid waste facility permit under the New Mexico Solid Waste Management Regulations, Section 201, and which is used for the final disposal of solid wastes.

3. This subsection 14-77D.4(A) applies to any land use or facility which requires a Federal wastewater discharge permit (NPDES) under 40 CFR Part 122.

B. In addition to the prohibitions set forth above, any land use or facility involving a discharge of water contaminants to ground water, other than in irrigation return flow, is not permitted in any W-1 District, unless the water being discharged is demonstrated to the satisfaction of the Environmental Officer to cause no water pollution. Nonconforming uses and facilities in existence at the time

District boundaries encompass the use or facility are subject to the following provisions.

1.If the nonconforming use or facility is authorized by a Discharge Plan approved by the State of New Mexico, the use or facility is permitted to remain within the District for a period not to exceed four years.

2.

If the nonconforming use or facility is authorized by a liquid waste disposal permit under the New Mexico Liquid Waste Disposal Regulations, Section 1~201 et seq., the use or facility is permitted to remain within the District for a period not to exceed one year.

3. If the nonconforming use or facility has an unauthorized discharge onto or below the surface of the ground which has the potential to impact ground water, the use or facility is permitted to remain within the District for a period not to exceed 180 days.

C. Any land use or facility involving an

underground storage tank registered under the State Underground

Storage Tank Regulations, Part II is subject to the following provisions.

1. Existing underground storage tanks are permitted to remain within the District for a period not to exceed four years, unless secondary containment is provided in conformance to the standards set forth in Subsection 10-5.6.

2. Any tank used solely for the purpose secondary containment of leaks and spills permitted.

3 Except as provided in 2, above, and except for the replacement of existing underground storage tanks with new underground storage tanks with no increase in capacity and with secondary containment, new underground storage tanks are not permitted in any W-1 District.

D. Any land use or facility, other than specified above, which requires a Hazardous Materials Permit in accordance with Section 10-5 SFCC 1987 is not permitted in any

W-1 District unless primary and secondary containment are provided in accordance with the requirements of Section 14-77D. 7.

1.For a new land use or facility, a commitment and a plan to provide primary and secondary containment are required prior to any approval which is conditioned upon meeting environmental standards set forth in Section 14-77A

2. For a land use or facility in existence at the time District boundaries encompass the use or facility, primary and secondary containment must be provided within one year.

E. A single extension of time to comply with this Section 14-77D.4, for a period not to exceed 180 days, may be granted to a nonconforming land use or facility by the Environmental Officer upon a showing by the owner or operator of the land use or facility that an adequate plan has been implemented to accomplish compliance with this ordinance. Any additional extensions of time shall be granted only upon approval of the City Council.

14-77D.5 Land. Uses Within a W-2 District. ~within the W~2 District, all facilities and land uses otherwise permitted by the applicable zoning are permitted except as follows.

A. Any land use or facility whose normal operation involves an unauthorized discharge to ground water, other than irrigation return flow, is not permitted, unless the water being discharged is demonstrated to the satisfaction of the. Environmental. Officer to cause no water pollution. Such discharges must cease within 180 days of the adoption of this ordinance, or within that time the owner or operator of the land use or facility must file an acceptable plan to cease and desist said discharge.

B. All new underground storage tanks must meet the performance standards set forth in Section 14-77D.6 except that such standards shall not apply. if the tank itself is used solely for the purpose of secondary containment of leaks and spills.

14~77D.6 Performance, Standards for Underground Storage Tanks. The following standards apply to new underground storage tanks located in the W~2 District, and to existing underground storage tanks which remain in a W-1 District for a period greater than four years. Each underground storage tank (UST) must comply with the New Mexico State Underground Storage Tank Regulations, including but not limited to the following.

A. The tank must meet the secondary containment requirements for hazardous substance UST systems as set forth in °602(b) of the New Mexico State Underground Storage Tank Regulations; these requirements apply to tanks storing gasoline and diesel as well as other non~potable materials.

B. The method of release detection must be interstitial. monitoring as set forth in

§ 603(g)(1) or § 603(g)(2) of the New Mexico Underground Storage Tank Regulations.

14-77D.7 Performance Standards for Primary and Secondary Containment. Existing uses and facilities which are required to obtain a Hazardous Materials Permit pursuant to Section 10-5, SFCC of 1987, and which are located in a W-1 District, must meet the following standards within one year. New uses and facilities which are required to obtain a Hazardous Materials Permit, and which are to be located in a W-1 District, must meet the following standards in order to be approved in accordance with Section 14-77A.

A. Primary containment must be provided and be of materials and a design to preclude any escape or release of material under reasonably foreseeable operational or accidental conditions.

B. Secondary containment must be provided and meet the following requirements:

1.

materials must be of sufficient thickness, density and composition so as not to be structurally weakened as a result of contact with a hazardous material and must be capable of containing hazardous materials discharged from a primary container for a period of time equal to or longer than the maximum anticipated time sufficient to allow removal of the discharged hazardous material. Laminated, coated, or clad primary containment facilities shall not be construed to fulfill the requirements of secondary containment

2. In the case of an installation with one primary container, the secondary containment shall be large enough to contain at least one hundred ten percent (110%) of the volume of the primary container.

3.

In the case of a storage facility with multiple primary containers, the secondary container shall be large enough to contain one hundred fifty percent (150%) of the volume of the largest primary container placed in it, or ten percent (10%) of the aggregate internal volume of all primary containers in the storage

facility, whichever is greater.

4. If the storage facility is open to rainfall, then the secondary containment must be able to additionally accommodate the volume of the maximum twenty-four-hour rainfall as determined by a one-hundred-year storm history.



C. All secondary containment facilities shall be designed and constructed to allow visible inspection to detect if the hazardous material stored in the primary containment has entered the secondary containment. The City may require additional monitoring provisions if necessary to minimize the risk of an unauthorized discharge of hazardous material.

D. Any containment facility which qualifies as secondary containment under any State or Federal hazardous substance regulation shall qualify as secondary containment under the provisions of this Section, unless the City promulgates ordinances to the contrary.

#### 14-77D.8 Requirement to Prepare Contingency Plan.

Within 180 days of the adoption of this ordinance, the owner of each public water supply system which provides service within Santa Fe shall file with the City a Contingency Plan.

A. The plan shall set forth specifications for testing of water supplies on a schedule of no less than four times each year, sufficient to ensure that contaminated water is not distributed in the water system, and specifications for how the system will respond to known or suspected existing or future contamination of its water supply.

B. The plan shall include plans for: treatment~, blending, or other means for management of contaminated water, including water which was contaminated prior to enactment of this ordinance; and for replacement of a contaminated supply from other sources, if appropriate; and for performing

monitoring and remediation studies if needed, and to the extent that monitoring or remediation is or may be the responsibility of the utility.

C. The contingency plan will be reviewed by the Environmental Officer for completeness, and accepted if the material contained therein is complete and demonstrates that a good faith effort has been made to prepare to respond for potential water pollution.

14-77D.9 Administration of wellhead Protection Program. The City, under the guidance of the Environmental Officer, shall develop procedures necessary to implement this ordinance, and to record actions taken with respect to the ordinance. In addition, the City shall take actions appropriate to developing a wellhead Protection Program which fulfills all the objectives of such a program as set forth in the Wellhead Protection Program for the State of New Mexico, prepared by the New Mexico Environment Department.

The Environmental Officer shall prepare an annual report summarizing the effectiveness of the City Wellhead Protection Program and containing recommendations for continuing and improving the program. The report shall discuss any need to:

A. conduct inventories of contamination sources within the City and, if appropriate, develop ordinances to control such sources;

B. develop ordinances for the proper siting, design, construction, monitoring and plugging of water wells within the W-1 and W-2 Districts, and ordinances for the proper plugging of abandoned wells within these districts;

C. develop ordinances governing monitoring to be performed by public water supply systems serving areas within the City;

D. develop public education programs to inform the citizens of Santa Fe about the Wellhead Protection Program;

E. expand the boundary of the W-1 District in order to increase travel-time protection for a given well, to provide protection for additional wells which are operated by public water supply systems other than Sangre de Cristo Water Company, or to protect a public water supply constructed after the date this ordinance becomes effective.

14-77D.10 Enforcement Procedures. Enforcement of this ordinance shall occur through the procedures set forth in Section 14-77A, for any change in land use; and Section 10-5 for any established land use. In addition, the City may take court action to enforce this ordinance if a non-conforming facility fails to conform with the ordinance within the time specified by the ordinance. Appeals of any decision of the Environmental Officer shall be made according to the procedures set forth in Section 10-4.13(F) SFCC of 1987.

14-77D.11 Penalties. Any person who owns or operates a facility which fails to comply with the provisions of this ordinance shall be subject to prosecution for a misdemeanor, with a penalty not to exceed \$500 per day of non-compliance.